

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**  
**ORDER**

Application 29235

Permit 20437

License

**ORDER APPROVING A NEW DEVELOPMENT  
SCHEDULE AND AMENDING PERMIT TERM**

**WHEREAS:**

1. Permit 20437 was issued to Grglich Hills Cellar, (A California Corporation) pursuant to Application 29235 on March 15, 1990.
2. A complaint was filed with the SWRCB by the owner of a licensed downstream reservoir against construction and operation of the permittees' upstream reservoir on December 23, 1993.
3. A petition requesting an extension of time to develop the project under the permit and apply the water to the proposed use has been filed with the State Water Resources Control Board (SWRCB) dated January 14, 1994.
4. In response to the above complaint, a compliance inspection by SWRCB staff on February 14, 1994 resulted in the proposal to modify Permit Term 16.
5. The SWRCB has determined that said modification of Permit Term 16 and extension of time will not initiate a new right nor operate to the injury of any other lawful user of water and that good and sufficient cause has been shown for said modification and extension of time.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Condition 8 of the permit be amended to read as follows:

Complete application of the water  
to the authorized use shall be made  
on or before December 31, 2007

(0000009)

2. Condition 16 of the permit be amended to read as follows:

This permit is specifically subject to the prior right under appropriation issued pursuant to Application 24588 which authorizes the storage of 15 acre-feet in the downstream Anderson Reservoir. For the protection of this prior right, permittee shall do one of the following:

1. Install and maintain a facility capable of bypassing five cubic feet per second (cfs) of the natural flow of the unnamed stream around The permittee's reservoir to the natural channel below the dam.

The plans for the bypass facility shall be submitted to the Chief, Division of Water Rights, for approval within 60 days from the date of this order.

Commencing no later than November 1 of each year, the facility shall allow no water to enter permittee's reservoir whenever streamflows are at or below 5 cfs until the water level in the Anderson Reservoir reaches the 15 acre-feet storage level at which time the prior right under appropriation issued pursuant to Application 24588 shall have been satisfied for the current collection season.

If the Anderson Reservoir has not reached the 15 acre-feet storage level on at least one occasion by May 1 of each year, any water collected to storage in permittee's reservoir since November 1 of the previous year, shall be released until the water storage level in the Anderson Reservoir reached 15 acre-feet. Permittee shall not be required to release any water below the previous November 1 storage level.

2. In lieu of installing a bypass facility, the permittee shall develop a monitoring program acceptable to the Chief, Division of Water Rights, which will account for all water entering and leaving permittee's reservoir. The monitoring program shall be submitted to the Division Chief within 60 days from the date this condition is added to the permit. If the Anderson Reservoir has not spilled or has not reached the 15 acre-feet storage level from natural inflow or storage releases from permittee's reservoir, on at least one occasion by May 1 of each year, permittee shall release from the permittee's reservoir the lesser of the following:

- (a) The total quantity of water diverted to storage in permittee's reservoir from the unnamed stream during the collection season of November 1 through April 30; or
- (b) The quantity of water needed for the water level in the Anderson Reservoir to reach the 15 acre-feet storage level.

(0050800)

Date: **NOVEMBER 24 1997**

*for*   
Edward C. Anton, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20437

Application 29235 of Grgich Hills Cellar, (A California Corporation),

P.O Box 450, Rutherford, CA 94573

filed on April 21, 1988, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1) Unnamed Stream

Buhman Creek thence

Napa River

(2) Unnamed Stream

Buhman Creek thence

Napa River

2. Location of point of diversion:

40-acre subdivision  
of public land survey  
or projection thereof

Section  
\*

Town-  
ship

Range

Base  
and  
Meridian

(1) NORTH 211,800 FEET AND EAST 1,909,600 FEET  
AND

SW $\frac{1}{4}$  OF SW $\frac{1}{4}$

28

5N

4W

MD

(2) NORTH 212,350 FEET AND EAST 1,910,250 FEET  
BOTH IN CALIFORNIA COORDINATE SYSTEM, ZONE 2

NW $\frac{1}{4}$  OF SW $\frac{1}{4}$

28

5N

4W

MD

County of Napa

\*PROJECTED

3. Purpose of use:

4. Place of use:

Section  
\*

Town-  
ship

Range

Base  
and  
Meridian

Acre

RECREATION

IRRIGATION

SW $\frac{1}{4}$  OF NW $\frac{1}{4}$

28

5N

4W

MD

8

NW $\frac{1}{4}$  OF SW $\frac{1}{4}$

28

5N

4W

MD

35

SE $\frac{1}{4}$  OF SE $\frac{1}{4}$

29

5N

4W

MD

5

NE $\frac{1}{4}$  OF SE $\frac{1}{4}$

29

5N

4W

MD

35

NW $\frac{1}{4}$  OF SE $\frac{1}{4}$

29

5N

4W

MD

2

SE $\frac{1}{4}$  OF NE $\frac{1}{4}$

29

5N

4W

MD

5

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 49 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 31, 1993. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 1994. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Permittee shall be required by the State Water Resources Control Board to install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, and provide other means satisfactory to the Board, in order that water entering the reservoir and stored below the natural stream channel which is not authorized for appropriation under this permit may be released. Permittee shall submit plans and specifications of the outlet pipe and means for releasing water stored below the stream channel level or alternative facilities to the Chief of the Division of Water Rights for approval within 6 months of the date upon which the Board issues the permit. Permittee shall furnish evidence which substantiates that the outlet pipe and means for releasing water stored below the stream channel level or alternative facility has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043)  
(0490700)

15. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage reading on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

Permittee shall allow protestant Anderson, or a designated representative, reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir.

(0070047)  
(0100047)

16. The permittee shall provide for a facility capable of diverting the full natural flow of the unnamed stream around his reservoir to the natural channel below his project and install controllable gates on the inlet to his reservoir.

The gates into the reservoir shall be closed whenever the downstream rights under licensed Application 24588 have not been satisfied.

(0050800)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **MARCH 15 1990**

STATE WATER RESOURCES CONTROL BOARD

*Roger Shuman*  
61 Chief, Division of Water Rights